

Remarks

This is responsive to the Office Action dated May 17, 2006 in this application. Claims 1-78 were examined in the Office Action and remain pending as a result of this amendment. Applicant has addressed herein each of the rejections detailed in the Office Action, respectfully asserts that each rejection has been overcome and requests reconsideration and allowance of this application at the Examiner's earliest convenience.

Specifically, at ¶3 of the Office Action, claims 1, 7, 18 and 26 were rejected under 35 U.S.C. § 112, second paragraph as being indefinite. The Office Action (¶4) states that the text of claim 1 at line 5 of "a corner of the carton formed by one of the end walls and one of the top and bottom wall" is unclear. Applicant respectfully asserts that the identified language of claim 1 is definite in that a corner is defined as being formed by a combination of one of the end walls and either the top wall or the bottom wall. Nevertheless, Applicant has amended this language in claim 1 to more explicitly recite this feature of the invention.

The § 112 rejection is also directed to claim 18 which is a dependent claim from claim 1. In that the identified language of claim 1 has been amended herein to overcome the § 112 rejection, Applicant respectfully asserts that likewise, each claim depending from claim 1, including claim 18, is likewise amended to overcome any

indefiniteness. Therefore, claim 18 has not been specifically amended herein, but is inherently amended based upon the amendments to base claim 1.

Claims 7 and 26 were also rejected under 35 U.S.C. § 112 second paragraph with respect to the phrase “the end wall” in each of those claims. Applicant has amended claims 7 and 26 to remove that phrase and thereby overcome the § 112 rejection.

With respect to the prior art rejections, claims 1-3, 6-10, 14 and 18 in ¶7 of the Office Action are rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,577,612 issued to Chesson. In ¶15 of the Office Action, claims 4 and 5 are rejected under 35 U.S.C. § 103(a) as being unpatentable over a combination of Chesson and U.S. Patent No. 4,340,170 issued to Montealegre. In ¶17 of the Office Action, claims 11 and 19-65 are rejected under § 103(a) as being unpatentable over Chesson in view of U.S. Patent No. 5,921,398 issued to Carroll. In ¶19 of the Office Action, claim 12 was rejected under § 103(a) as being unpatentable over Chesson in view of U.S. Patent No. 4,974,771 issued to Lavery. Finally, in ¶21 of the Office Action, claim 13 is rejected under § 103(a) as being unpatentable over Chesson in view of U.S. Patent No. 5,690,213 issued to Matsumura.

In reviewing the Office Action, Applicant notes that claims 15-17 and 66-78 have not been rejected and, therefore, Applicant has not amended those claims herein. However, certain portions of the Office Action (for example ¶¶13, 18 and 23) discuss

certain claims with respect to the prior art. Nevertheless, since a rejection has not been set forth with respect to claims 15-17 and 66-78, Applicant respectfully requests notice of allowance with respect to those claims or a clarification with respect to the novelty and/or nonobviousness of those claims with respect to the prior art.

Each of the prior art rejections is based solely upon Chesson or utilizes Chesson as the primary reference. Of the claims rejected based upon the prior art, claims 1, 19, 37, 43, 51, 55, 63 and 65 are independent claims. In response to the prior art rejections, Applicant has amended herein each of those independent claims, with the exception of claim 51, to overcome the Chesson reference rejections. Applicant respectfully asserts that the amendments to the independent claims and, inherently, the associated dependent claims, overcome the Chesson reference and the other prior art relied upon by the Examiner. Applicant will now explain the patentability of the amended claims and original claim 51 with respect to Chesson.

Chesson is directed to a carton for housing sheets, such as dryer sheets. The carton includes lines of weakness defining a reclosable access flap in the top and front panels. The top panel is identified by reference numeral 511 in the carton blank of Fig. 3 and the front panel is formed by a combination of flaps, one of which is identified reference numeral 512. As shown clearly in Fig. 3, the reclosable access flap is defined in only one of the flaps that form the front panel; namely, the flap identified as reference numeral 512. The remaining flaps which contribute to form the front panel remain in

tact and the tear line which forms the reclosable access flap does not extend in any of the other than 512.

In contrast, various embodiments of Applicant's claimed invention include a dispenser which is formed in the top wall panel 16 and composite end wall 48 as shown in Figs. 1 and 2. The composite end wall 48 is formed from combinations of flaps which extend from other wall panels of the carton. The dispenser formed in embodiments of Applicant's invention is a result of tear line which extends in the top wall panel and the composite end wall 48. Specifically, the tear line extends through more than one of the flaps of the composite end wall 48 as shown in Fig. 1. For example, the tear line in the embodiment in Fig. 1 which forms the dispenser extends in multiple end flaps 40, 44 and 46. This is distinctly different from the arrangement provided in the Chesson invention in which the tear line is limited to only one flap. Applicant's amendments herein provide such a distinction to the rejected claims.

Claims 1, 19, 37, 43, 55 and 63 have each been amended herein to recite a plurality of flaps extending from at least some of the walls and the end walls being formed by combinations of the flaps. One example of this feature of Applicant's invention is the composite end wall 48 as previously discussed. Additionally, these claims have been amended herein to recite that the dispenser portion is formed from "more than one of the flaps" in addition to the features previously included in the claims. As such, Applicant respectfully asserts that the recitation that the dispenser is formed

from more than one of the flaps provides clear novelty with respect to the Chesson invention. Moreover, Applicant respectfully asserts that one of ordinary skill in the art would not be motivated to modify the prior art to arrive at Applicant's claimed invention in which the dispenser is formed from more than one of the flaps as recited in the amended claims.

Claim 65 is a method claim and recites the closed ends are "formed by combinations of flaps extending from at least some of the panels" as amended herein. Additionally, the dispenser is formed by "portions of more than one of the flaps" according to amended claim 65 as well as the step of pulling the dispenser open on portions of the tear line that extend in the exiting end, "portions of more than one flap" and the top panel. As such, Applicant respectfully asserts that method claim 65 likewise distinguishes over the corresponding method of opening an enclosed carton disclosed in Chesson and the other cited references.

Independent claim 51 has not been amended herein in that it already includes novel and nonobvious features relative to Chesson and the prior art of record. For example, claim 51 recites that a plurality of tear lines are adapted to form a dispenser opening in the carton and the tear lines extend "through selected ones of the bottom wall flaps and the side wall flaps." As such, more than one flap is included in the dispenser opening of claim 51, unlike the Chesson invention. As such, Applicant respectfully asserts that claim 51 as originally presented is both novel and nonobvious

relative to Chesson and, as such, has not amended claim 51 herein in response to the Office Action.

Applicant respectfully asserts that each of the rejections based upon § 112 and Chesson under §§ 102 and 103 have been overcome as a result of the amendments to the claims and the remarks given herein. As such, Applicant respectfully requests notice of allowance with respect to claims 1-78 at the Examiner's earliest convenience. If the Examiner feels any matter in this case requires further attention prior to issuing a Notice of Allowance, the Examiner is asked to telephone the undersigned attorney for prompt resolution.

Respectfully submitted,

WOOD, HERRON & EVANS, L.L.P.

By: /Keith R. Haupt/
Keith R. Haupt
Reg. No. 37,638

2700 Carew Tower
Cincinnati, OH 45202
(513) 241-2324
(513) 241-6234 (Facsimile)
khaupt@whepatent.com
K:\RWZ\78U\amendment.wpd